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**From:**

**Sent:** Monday, May 24, 2010 10:19:14 AM

**To:**

**Cc:**

**Subject:** RE: Voluntary Disclosure

I suppose that is always a risk with the nonduplication rule. The taxpayer should know that, under our regs, FICA is due upon distribution if the amounts were not properly taken into account upon deferral under section 3121(v)(2). There will always be a question of whether the Service will discover it if the taxpayer fails to pay the required FICA upon distribution. Our tax system is based on voluntary compliance.

I sense that you are sympathetic to the taxpayer's argument that they relied on the bad advice they got from their payroll company. On the more general issue of whether it is appropriate or acceptable (or common?) for us to waive the statute of limitations based on this type of excuse, I have to admit that I just don't know. [REDACTED]